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Venisha Brown, Michael D. Brown, Nicole C. Brown, Jeanette Mitchell
Bellinger, Sarah LaTonya Fegan, Ciara Pettit and Cherquarius Williams

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEANNA BROWN-THOMAS, an
individual; YAMMA BROWN, an
individual; VENISHA BROWN, an
individual; MICHAEL D. BROWN, an
individual; NICOLE C. BROWN, an
individual; JEANETTE MITCHELL
BELLINGER, an individual; SARAH
LATONYA FEGAN, an individual;
CIARA PETTIT, an individual; and
CHERQUARIUS WILLIAMS, an
individual,

Plaintiffs,

vs.

TOMMIE RAE HYNIE a.k.a.
TOMMIE RAE BROWN, an
individual; JAMES J. BROWN II, an
individual; RUSSELL L.
BAUKNIGHT, as the Personal
Representative of the Estate of James
Brown and Trustee of The James
Brown "I Feel Good" Trust; DAVID C.
SOJOURNER, JR., as the Limited
Special Administrator of the Estate of
James Brown and Limited Special
Trustee of The James Brown "I Feel
Good" Trust; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 2:18-CV-00307

COMPLAINT FOR:

- [1] DECLARATORY RELIEF
(28 U.S.C. § 2201);
- [2] ACCOUNTING;
- [3] CONVERSION;
- [4] UNJUST ENRICHMENT;
- [5] INTENTIONAL
INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE;
- [6] NEGLIGENT
INTERFERENCE WITH
PROSPECTIVE ECONOMIC
ADVANTAGE;
- [7] VIOLATION OF
CALIFORNIA BUS. AND
PROF. CODE §§ 17200 *ET*
SEQ. and §§ 17500 *ET*
SEQ.; and CALIFORNIA
COMMON LAW UNFAIR
COMPETITION

DEMAND FOR JURY TRIAL

1 Plaintiffs Deanna Brown-Thomas, Yamma Brown, Venisha Brown,
2 Michael D. Brown, Nicole C. Brown, Jeanette Mitchell Bellinger, Sarah
3 LaTonya Fegan, Ciara Pettit and Cherquarius Williams (hereinafter, the
4 “Plaintiffs”), by and through their attorneys of record, hereby allege as follows:

5 **JURISDICTION AND VENUE**

6 1. This is a civil action for declaratory and injunctive relief under the
7 United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* (hereinafter, “the
8 Copyright Act”), for declaratory relief under the Declaratory Judgment Act, 28
9 U.S.C. § 2201, and for related state-law claims.

10 2. This Court has original subject matter jurisdiction over the claims
11 set forth in this complaint pursuant to the Copyright Act, 17 U.S.C. § 101 *et*
12 *seq.*, 28 U.S.C. §§ 1331, 1332, and 1338(a) and (b), and the Declaratory
13 Judgment Act, 28 U.S.C. § 2201.

14 3. This Court has supplemental jurisdiction over the related state
15 claims herein pursuant to 28 U.S.C. § 1367(a) in that these claims form part of
16 the same case and controversy as the federal claims herein.

17 4. This Court has personal jurisdiction over the defendants in that
18 defendants are regularly doing business in the State of California and in this
19 district, and because a substantial portion of the relevant acts complained of
20 herein occurred in the State of California and in this District.

21 5. Venue is proper in the United States District Court for the Central
22 District of California pursuant to 28 U.S.C. §§ 1391(b), (c) and 1400(a) because
23 a substantial part of the events and the wrongful conduct giving rise to this
24 action occurred in this district, upon information and belief Defendants
25 TOMMIE RAE HYNIE and her son JAMES BROWN II maintain residences in
26 this district, and all Defendants are otherwise subject to this Court’s personal
27 jurisdiction with respect to this action.

28 6. The federal termination rights and interests under the Copyright

1 Act, 17 U.S.C. §§ 304 (c) and 203(a), and the proceeds therefrom, at issue in this
2 action are not the subject of the probate and other proceedings in South Carolina
3 regarding Brown's will and trust, or of any other past or pending proceeding.

4 **NATURE OF THE ACTION**

5 7. The legendary singer-songwriter James Joseph Brown a.k.a. James
6 Brown (hereinafter "Brown") died on Christmas Day, December 25, 2006.
7 Defendant TOMMIE RAE HYNIE (hereinafter, "HYNIE"), his estranged
8 purported wife, from a notoriously bigamous marriage, was not named as a
9 beneficiary in Brown's will, to no one's surprise. Nor was her son, whom she
10 conspicuously named JAMES JOSEPH BROWN II (hereinafter "JAMES II").
11 HYNIE therefore embarked on a series of duplicitous business machinations
12 calculated to (i) deprive Brown's children of their rightful interests in Brown's
13 music under the Copyright Act and (ii) divert the financial proceeds from such
14 interests to herself, in violation of the Copyright Act and state common law.
15 Each of these wrongful acts by Defendants threatens irreparable harm to
16 Brown's family, and must be swiftly brought to an end.

17 8. Plaintiffs are Brown's biological children, and as to two deceased
18 children, grandchildren, and, as such, qualify as Brown's statutory heirs under
19 the Copyright Act.

20 9. Defendant HYNIE claims to be Brown's surviving spouse, despite
21 having concealed from Brown that she was, in fact, married to another man
22 when she married Brown. Nonetheless, HYNIE, in an unrelated South Carolina
23 probate action challenging Brown's will and trust, somehow obtained a spousal
24 ruling in her favor. In that action, JAMES II was also perfunctorily declared to
25 be Brown's biological child, despite widespread skepticism.

26 10. For purposes of this copyright action, however, Plaintiffs assume
27 and in no way seek to re-litigate HYNIE's and JAMES II's purported status as
28 Brown's surviving spouse and child, respectively, though this is unsupported by

1 the facts or law, and Plaintiffs otherwise reserve all rights, defenses and
2 remedies as to these issues.

3 11. As Brown's alleged widow and child, HYNIE and JAMES II
4 purport to constitute a majority of Brown's statutory heirs under the U.S.
5 Copyright Act, and, as such, to allegedly control Brown's "termination rights"
6 under Sections 304(c)(1) and 203(a) of the Copyright Act, regarding the
7 copyrights to hundreds of valuable musical compositions authored or co-
8 authored by Brown (hereinafter, the "Composition(s)").

9 12. The termination interest is without doubt *the* most important
10 interest under the Copyright Act, after copyright itself. Pursuant to the Act, the
11 termination interest belongs to the author, and upon the author's death to his
12 statutorily defined heirs, principally his surviving spouse, children, and, in the
13 case of any deceased child, grandchildren. 17 U.S.C. §§ 304 and 203. Thus,
14 notwithstanding HYNIE's alleged spousal status, Brown's children and his
15 grandchildren (in the case of two deceased children), most of whom constitute
16 Plaintiffs, are entitled to an undivided *50% of the copyright termination interests*
17 *in the Compositions*, 17 U.S.C. §§ 304(c)(2)(B), 203(a)(2)(B). In turn, HYNIE
18 and JAMES II have an absolute concomitant duty under state common law to
19 account to these co-owners for *50% of all proceeds from Brown's termination*
20 *interests*.

21 13. In violation of the Copyright Act and their common-law duties,
22 HYNIE and JAMES II have conspired with the other Defendants (the personal
23 representative and trustee and the limited special administrator and special
24 trustee of Brown's estate and trust, respectively) to usurp Plaintiffs' rights and
25 interests in Brown's Compositions, and to divert for Defendants' sole benefit the
26 financial proceeds they are obligated to share with Plaintiffs. Plaintiffs are
27 informed and believe and based thereon allege that, among other brazen
28 conduct, Defendants have concealed illegal back-room agreements deliberately

1 designed to destroy, circumvent and/or dilute Plaintiffs' interests. Defendants'
2 illicit trafficking in the termination interests violates the Copyright Act and the
3 strong legislative policies behind its termination provisions. Decisive Court
4 intervention is needed to prevent Defendants from destroying Plaintiffs'
5 valuable copyright interests in the Compositions, and their state common-law
6 rights to an allocate share of the proceeds derived therefrom.

7 **PARTIES**

8 14. Plaintiff DEANNA BROWN THOMAS is the biological daughter
9 of James Brown, and is an individual and citizen of, and resides in, the State of
10 South Carolina, in the County of Aiken, and is and at all times has been a citizen
11 of the United States.

12 15. Plaintiff YAMMA BROWN is the biological daughter of James
13 Brown, and is an individual and citizen of, and resides in, the State of Georgia,
14 in the County of Cobb, and is and at all times has been a citizen of the United
15 States.

16 16. Plaintiff VENISHA BROWN is the biological daughter of James
17 Brown, and is an individual and citizen of, and resides in, the State of South
18 Carolina, in the County of Aiken, and is and at all times has been a citizen of the
19 United States.

20 17. Plaintiff MICHAEL D. BROWN is the biological son of James
21 Brown, and is an individual and citizen of, and resides in, the State of California,
22 in the County of Sacramento, and is and at all times has been a citizen of the
23 United States.

24 18. Plaintiff NICOLE C. BROWN is the biological daughter of James
25 Brown, and is an individual and citizen of, and resides in, Vancouver, British
26 Columbia and is and at all times has been a citizen of Canada.

27 19. Plaintiff JEANETTE MITCHELL BELLINGER is the biological
28 daughter of James Brown, and is an individual and citizen of, and resides in, the

1 State of Georgia in the County of Richmond, and is and at all times has been a
2 citizen of the United States.

3 20. Plaintiff SARAH LATONYA FEGAN is the biological
4 granddaughter of James Brown, and is an individual and citizen of, and resides
5 in, the State of Georgia in the County of Richmond, and is and at all times has
6 been a citizen of the United States.

7 21. Plaintiff CIARA PETTIT is the biological granddaughter of James
8 Brown, and is an individual and citizen of, and resides in, the State of Texas, in
9 the County of Harris, and is and at all times has been a citizen of the United
10 States.

11 22. Plaintiff CHERQUARIUS WILLIAMS is the biological
12 granddaughter of James Brown, is an individual and citizen of, and resides in,
13 the State of Texas, in the County of Harris, and is and at all times has been a
14 citizen of the United States.

15 23. Plaintiffs are informed and believe and based thereon allege that
16 Defendant HYNIE is an individual and citizen of, and resides or until recently
17 resided in, the State of California, in the County of Los Angeles, and is and at all
18 times has been a citizen of the United States.

19 24. Plaintiffs are informed and believe and based thereon allege that
20 Defendant JAMES J. BROWN II is HYNIE's son (currently, age 16), and is an
21 individual and citizen of, and resides or until recently resided in, the State of
22 California, in the County of Los Angeles, and is and at all times has been a
23 citizen of the United States.

24 25. Plaintiffs are informed and believe and based thereon allege that
25 Defendant RUSSELL L. BAUKNIGHT is the Personal Representative of the
26 Estate of James Brown a.k.a. James Joseph Brown (hereinafter, the Estate"), and
27 the Trustee of the James Brown Irrevocable Trust, u/a/d August 1, 2000
28 (hereinafter, the "Trust") (hereinafter, Mr. Bauknight is referred to in both

1 capacities as the “Personal Representative”).

2 26. Plaintiffs are informed and believe and based thereon allege that
3 Defendant DAVID C. SOJOURNER, JR. is the Limited Special Administrator
4 of the Estate, and the Limited Special Trustee of the Trust (hereinafter Mr.
5 Sojourner is referred to in both capacities as the “LSA”), appointed in October,
6 2013 to defend the Estate and Trust against numerous claims *by HYNIE*. (The
7 LSA and the Personal Representative are hereinafter collectively referred to as
8 the “Estate and Trust Fiduciaries.”)

9 27. Plaintiffs are informed and believe and based thereon allege that the
10 fictitiously named Defendants captioned hereinabove as Does 1 through 10,
11 inclusive, and each of them (hereinafter “DOE(S)”) were in some manner
12 responsible or legally liable for the actions, damages, events, transactions, and
13 circumstances alleged herein. The true names and capacities of such fictitiously
14 named defendants, whether individual, corporate, associate, or otherwise, are
15 presently unknown to Plaintiffs, and Plaintiffs will amend this Complaint to
16 assert the true names and capacities of such fictitiously named Defendants when
17 the same have been ascertained. For convenience, each reference herein to a
18 named Defendant or to Defendants shall also refer to the Doe Defendants and
19 each of them.

20 28. Plaintiffs are informed and believe and based thereon allege that
21 each of the Defendants was the agent, partner, servant, employee, or employer of
22 each of the other Defendants herein, and that at all times herein mentioned, each
23 of the Defendants was acting within the course and scope of such employment,
24 partnership and/or agency and that each of the Defendants is jointly and
25 severally responsible for the damages hereinafter alleged.

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31. Section 304(c) of the Copyright Act provides for the termination of pre-1978 transfers of copyright or rights under copyright by the author or author's heirs during a five (5) year period, commencing fifty-six (56) years after the date a work first secured a statutory copyright by registration or publication. 17 U.S.C. § 304(c)(3). Section 203(a) of the Copyright Act provides for the termination of post-1977 transfers of copyright or rights under copyright by the author during a five (5) year period commencing thirty-five (35) years after the date the subject copyright or rights under copyright were transferred. *Id.* § 203(a)(3). In every case, the requisite notice of termination must spell out the "effective date" of termination, within the five-year termination "window," when the previously transferred copyright or rights under copyright will be recaptured by the author or his statutory heirs.

1 32. Congress carefully limited the class of persons who can exercise
2 termination rights. If living, the author alone can exercise termination rights. If
3 the author is deceased, the termination rights are shared by the author's
4 surviving spouse, children, and, in the case of any deceased child, grandchildren.
5 *Id.* §§ 304(c)(1)-(2), 203(a)(1)-(2). Importantly, an author's testamentary intent
6 and will are irrelevant to the operation of the Copyright Act's termination
7 provisions and to the rights and interests of the author's *statutory heirs* as
8 designated by the Act.

9 33. If an author is survived by a spouse and children, the surviving
10 spouse is deemed to own 50% of the termination interest, and the author's
11 surviving children, and the grandchild(ren) of any deceased child, own
12 collectively the other 50% of the termination interest on a *per stirpes* basis. *Id.*
13 §§ 304(c)(2)(A)-(C), 203(a)(2)(A)-(C). Notably, the termination right can only
14 be exercised by those persons that collectively own more than one-half of the
15 termination interest. *Id.* §§ 304(c)(1), 203(a).

16 34. The copyright interests in a work recaptured via statutory
17 termination are *co-owned* by the statutory heirs in the same proportion as their
18 share of the termination interests set forth above, *id.* §§ 304(c)(6), 203(b), and
19 such co-ownership interest vests upon the *service* of the applicable notice of
20 termination. *Id.* §§ 304(c)(6)(B) and 203(b)(2).

21 35. Congress was very protective of the termination interest and, to that
22 end, enacted a number of provisions to prevent any waiver, encumbrance and/or
23 interference with the termination interest.

24 36. First, "[t]ermination of the [prior copyright] grant may be effected
25 notwithstanding *any* agreement to the contrary, including an agreement to make
26 a will or to make a future grant." *Id.* §§ 304(c)(5), 203(a)(5)(emphasis added).

27 37. Second, "[a] further grant, or agreement to make a further grant, of
28 any right covered by a terminated grant is valid only if made after the effective

1 date of the termination[.]” except that such a grant or agreement may be made
2 “after the notice or termination has been served” with “the original grantee or
3 such grantee’s successor in title.” *Id.* §§ 304(c)(6)(D), 203(b)(4).

4 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

5 38. HYNIE worked as a Janis Joplin impersonator in Las Vegas,
6 Nevada and as a back-up singer in the James Brown Revue. Much controversy
7 surrounded HYNIE’S purported marriage to Brown in December, 2001 because
8 at the time HYNIE was married to another man (Javed Ahmed), a fact she
9 intentionally concealed from Brown. Although HYNIE’S 1997 marriage to
10 Ahmed was eventually annulled in 2004, this was long after her purported
11 marriage to Brown, and Brown and Hynie *never* remarried.

12 39. In fact, in 2004 when Brown found out about HYNIE’S secret 1997
13 marriage to another man, he commenced legal action in South Carolina to annul
14 his bigamous marriage to HYNIE, while HYNIE counterclaimed for a divorce.
15 The two eventually settled that action in an August 16, 2004 consent order,
16 wherein HYNIE even agreed to “forever waive any claim to a *common-law*
17 marriage to [Brown]” (emphasis added). Plaintiffs are informed and believe and
18 thereon allege that not long after Brown’s death, HYNIE and her son JAMES II,
19 who is a minor, moved in with a new man previously unknown to Brown’s
20 family.

21 40. HYNIE’S claim that JAMES II was Brown’s biological child has
22 likewise been engulfed in controversy. Plaintiffs are informed and believe and
23 on that basis allege that Brown had a vasectomy in the 1980s to specifically
24 avoid paternity suits, and that JAMES II is the only child born in the over-
25 twenty-year period between Brown’s vasectomy and his death to claim Brown
26 was his biological father.

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Prior Probate Proceedings

41. James Brown died on December 25, 2006 in Atlanta, Georgia. Brown's last will and testament (hereinafter, the "Will") conspicuously *omits* HYNIE and JAMES II as beneficiaries. The Trust established by Brown prior to his death Brown also omitted HYNIE and JAMES II as beneficiaries. Brown's Will covered the disposition of his personal assets (*e.g.*, cars, clothing, jewelry), while his Trust covered the disposition of his music, commercial and real estate assets.

42. In or about January 2007, Brown's Will was submitted for informal probate in the Probate Court in Aiken County, South Carolina.

43. As neither HYNIE nor her son was named as a beneficiary of the Will or Trust, HYNIE filed petitions in December, 2007 to set aside Brown's Will and Trust, alleging undue influence and fraud, whereupon the Probate Court transferred the matter to the South Carolina Court of Common Pleas.

44. In or about November 2015, the LSA, on behalf of the Estate and Trust, vigorously appealed the Spousal Orders to the South Carolina Court of Appeals, and demonstrated in its subsequent appellate briefing why the Spousal Orders had no basis in fact or law. While that appeal was pending, however, the Estate and Trust Fiduciaries suddenly reversed course, and on March 8, 2017, entered into a written settlement agreement with HYNIE (hereinafter, the "Purported Settlement Agreement"). Therein, HYNIE agreed to dismiss her claims against the Estate and Trust, and the LSA agreed to withdraw its appeal of the Spousal Orders in exchange for HYNIE'S transfer to the Trust of sixty-five percent (65%) of all proceeds from her copyright termination rights.

45. In moving to dismiss HYNIE's claims and the LSA's appeal, HYNIE and the LSA attached a copy of the Purported Settlement Agreement to their motion papers. However, the terms of the Purported Settlement Agreement were facially implausible, and HYNIE's paltry consideration for the agreement

1 strongly suggested that there was much more to Defendants' bargain.
2 Accordingly, Plaintiffs Deanna Brown Thomas, Yamma Brown and Venisha
3 Brown, who were named as beneficiaries in Brown's Will, repeatedly requested
4 that the Estate and Trust Fiduciaries disclose any undisclosed terms and
5 agreements with HYNIE, but their requests for transparency were ignored.

6 46. In June, 2017, these Plaintiffs moved in the South Carolina trial
7 court for an order compelling the Estate and Trust Fiduciaries to disclose the
8 complete terms of all agreements between HYNIE and the Estate and Trust
9 Fiduciaries. Both HYNIE and the Estate and Trust Fiduciaries vigorously
10 opposed this motion, arguing they had no duty to disclose their terms, leading to
11 the inescapable conclusion that, while purporting to disclose all terms in the
12 Purported Settlement Agreement, they had, in fact, concealed numerous terms in
13 a parallel document(s) (hereinafter, the "Concealed Terms"), perpetuating a
14 fraud on both Plaintiffs and the court. Indeed, at an October 31, 2017 hearing of
15 Plaintiffs' motion to compel disclosure, the Estate and Trust Fiduciaries
16 indicated that there were undisclosed terms. Notwithstanding all of the above,
17 the South Carolina trial court once again sided with HYNIE, and cursorily
18 denied Plaintiffs' motion to compel disclosure, without analysis or any
19 explanation.

20 47. Plaintiffs are informed and believe and on that basis allege that the
21 Concealed Terms demonstrate that the Defendants have conspired to unlawfully
22 deprive Plaintiffs of their valuable termination interests in Brown's
23 Compositions in violation of the Copyright Act, and/or to convert and
24 substantially dilute Plaintiffs' rightful share of the proceeds from these co-
25 owned interests, in violation of state common law.

26 Defendants' Conspiracy to Undermine Plaintiffs' Termination Interests

27 48. Before the 2017 Concealed Terms, Defendants had engaged in a
28 pattern of deceptive and unethical conduct, as part of a scheme to induce

1 Plaintiffs to waive or sign away their termination interests in the Compositions,
2 and to otherwise undermine Plaintiffs' state common-law rights to a large share
3 of the proceeds from such interests. Beginning in or about September, 2013,
4 Peter Afterman, a music industry "consultant" on the payroll of the Estate and/or
5 Trust (hereinafter, the "Estate's Music Consultant"), and acting in concert with
6 Defendants, approached Plaintiffs, without their copyright counsel's knowledge,
7 to induce Plaintiffs to fire their copyright counsel and to sign away or repudiate
8 their copyright termination interests, without adequate independent legal
9 representation. Plaintiff is informed and believes and based thereon alleges that
10 this illicit campaign was orchestrated by Defendants, their agents and/or counsel.

11 49. The ancillary purpose of Defendants' scheme was to persuade
12 enough of Brown's children/grandchildren to waive or repudiate their
13 termination interests for relatively small amounts of cash, and thereby
14 *preclude* the requisite majority of Brown's statutory heirs needed to exercise
15 termination rights under the Copyright Act. Defendants deliberately concealed
16 the underhanded nature of these proposals by orchestrating their pressure
17 campaign through go-betweens who falsely professed to be working in
18 Plaintiffs' best interests. To further forestall Plaintiffs from obtaining
19 independent legal advice, Defendants hid their predatory actions from Plaintiffs'
20 California copyright counsel who, as Defendants were well aware, specifically
21 represented Plaintiffs' termination interests. Ultimately, Defendants' scheme
22 failed when Plaintiffs' copyright counsel got wind of it.

23 50. Just prior to that time, Defendants HYNIE and her son JAMES II,
24 banking on HYNIE'S spousal claim, purported to exercise Brown's termination
25 rights as to approximately one hundred and thirty-eight (138) Compositions by
26 serving notices of termination dated August 26, 2013, August 28, 2013 and
27 August 29, 2013, respectively (the "2013 Hynie Terminations") on
28 Warner/Chapell Music., Inc. ("WCM"), the successor music publisher to the

1 original grantees of the Compositions. Plaintiffs are informed and believe, and
2 on that basis allege, that the Estate's Music Consultant who illicitly approached
3 Plaintiffs, assisted HYNIE with her notices of termination, demonstrating further
4 conflicts of interest and collusion between HYNIE and the Estate and Trust
5 Fiduciaries.

6 51. Even though Brown's children (and, in the case of two deceased
7 children, grandchildren) own an absolute undivided 50% share of the copyrights
8 recaptured via the 2013 Hynie Terminations and any proceeds therefrom,
9 HYNIE deliberately did not disclose the 2013 Hynie Terminations to Plaintiffs,
10 and in furtherance of her concealment, she waited until 2015 to publicly record
11 such notices of termination with the Copyright Office.

12 52. On or about August 1, 2015, Defendants HYNIE and JAMES II,
13 unbeknownst to Plaintiffs, entered into an agreement in California to transfer
14 back to WCM five (5) of the earliest Compositions subject to the 2013 Hynie
15 Terminations for \$1,875,000 (the "WCM Agreement"). Plaintiffs are informed
16 and believe, and on that basis allege, that the Estate's Music Consultant
17 participated in the negotiation of the WCM Agreement, which conspicuously
18 favored the Estate and Trust Fiduciaries by leaving intact the Estate/Trust's
19 approximately 50% royalty interest in the Compositions (\$1,875,000 of
20 additional value), strongly indicating the undisclosed involvement of the Estate
21 and Trust Fiduciaries in this transaction, as well. In other words, under the
22 WCM Agreement, HYNIE and JAMES II gratuitously agreed, notwithstanding
23 their notices of termination, that the Estate/Trust shall receive roughly 50% of
24 the proceeds from the five terminated Compositions, severely diminishing the
25 participation of Brown's statutory heirs, including Plaintiffs, in the proceeds
26 from their termination interests. Nowhere in the WCM Agreement does HYNIE
27 and/or JAMES II receive any consideration for this valuable concession, leaving
28 open the possibility that Defendants made an undisclosed side-deal whereby

1 HYNIE is to be paid additional sums out of the Estate/Trust's 50% royalties.
2 Such an arrangement would permit Defendants to convert a substantial portion
3 of the revenues from the Compositions that, by law, would otherwise be divided
4 among *all* of Brown's statutory heirs, including Plaintiffs.

5 53. Furthermore, although the WCM Agreement, at WCM's insistence
6 and as required by law, obligated HYNIE to pay 50% of the proceeds from the
7 agreement to Brown's children (and in the case of two deceased children,
8 grandchildren), including Plaintiffs, HYNIE also initially concealed the WCM
9 Agreement from Plaintiffs and their copyright counsel, and failed to voluntarily
10 pay Plaintiffs their allocate share of the proceeds from that agreement.

11 54. Instead, in or about September – December, 2015, HYNIE, through
12 her counsel and go-betweens, dangled the money before Plaintiffs that,
13 unbeknownst to Plaintiffs, was already owed to them under the undisclosed
14 WCM Agreement, in a renewed effort to circumvent Plaintiffs' copyright
15 counsel and persuade Plaintiffs to forego their termination interests in the
16 Compositions. To this end, HYNIE, through her counsel, engaged in
17 extortionate strong-arm tactics, telling Plaintiffs, through go-betweens, that
18 they will not receive their share of these proceeds unless they play ball.

19 55. HYNIE further attempted to coerce Plaintiffs by threatening that
20 unless they capitulate she would unilaterally enter into a private agreement with
21 the Estate and Trust Fiduciaries *not to exercise* her alleged termination rights in
22 exchange for payments to her alone. According to HYNIE's threats, such an
23 agreement would block Brown's children and grandchildren from receiving their
24 50% share of the proceeds from the termination interests in the hundreds of
25 Compositions for which notices of termination had not yet been served by
26 HYNIE and JAMES II. That is, while HYNIE would keep 100% (instead of
27 50%) of the financial proceeds from *leveraging* the termination interests shared
28 with Plaintiffs, by agreeing *not to exercise* termination rights, Plaintiffs would

1 ultimately receive nothing for their valuable interests.

2 56. To further her scheme, HYNIE once again concealed her proposals
3 from Plaintiffs' copyright counsel, and, in fact, pressured Plaintiffs to sever ties
4 with said counsel. To intercede and interfere with Plaintiffs' attorney-client
5 relationship, HYNIE'S counsel initiated back-channel communications with
6 Plaintiffs' contingency lawyers in the unrelated South Carolina probate
7 proceeding (who had no right to collect fees on Plaintiffs' valuable copyright
8 interests) and wrongly offered these attorneys a path to collect fees on Plaintiffs'
9 termination interests if they induced Plaintiffs to fire their copyright counsel and
10 advised them to cooperate with HYNIE. Eggregiously, HYNIE coupled these
11 back-channel overtures with repeated derogatory misrepresentations to Plaintiffs
12 regarding their copyright counsel, to induce Plaintiffs to instead allow their
13 probate attorneys to handle their copyright termination interests, despite such
14 counsel's total inexperience with copyright law.

15 57. It was only after this scheme failed and Plaintiffs' copyright
16 counsel learned of the WCM Agreement that HYNIE, under pressure from
17 WCM and the threat of legal action, reluctantly provided Plaintiffs with a copy
18 of the WCM Agreement and, after lengthy delays, their share of the proceeds
19 from the WCM Agreement. Throughout, HYNIE maintained falsely that she
20 owed no duty of disclosure to Plaintiffs, just as she and the other Defendants
21 now assert with respect to the Concealed Terms.

22 58. Plaintiffs are informed and believe and based thereon allege that
23 HYNIE and the other Defendants have entered into further as-yet-undiscovered
24 transactions to license, grant, and/or make other economic use of the termination
25 interests in the Compositions that they have deliberately failed to disclose to
26 Plaintiffs that result in proceeds payable to Plaintiffs, and/or dilute and convert
27 Plaintiffs' share of proceeds from the termination interests.
28

1 Improper Agreements That Traffic in Statutory Termination Rights

2 59. HYNIE’S recent Purported Settlement Agreement on its face
3 assigns to the Trust *the majority of the proceeds* from the federal termination
4 rights and interests, pre-encumbering the termination right in violation of the
5 terms and legislative objectives of the Copyright Act’s termination provisions.
6 17 U.S.C. §§ 304(c)(5), 203(a)(5).

7 60. Plaintiffs are informed and believe and on that basis allege that in
8 the Concealed Terms, HYNIE, as previously threatened, improperly used the
9 leverage of the federal termination interests she shares with Plaintiffs to extract
10 significant compensation from the Estate and Trust Fiduciaries in exchange for
11 her agreement *not to exercise* the termination rights as to many Compositions,
12 resulting in HYNIE pocketing 100% of such proceeds, instead of 50%, and
13 wrongfully depriving Plaintiffs of their termination interests under the Act.

14 61. Plaintiffs are further informed and believe and on that basis allege
15 that in the Concealed Terms HYNIE and JAMES II agreed, in exchange for
16 compensation, to leave intact (as in the WCM Agreement) the Estate/Trust’s
17 approximately 50% royalty interests as to any Compositions for which notices of
18 termination have been served and/or would be served by them, wrongfully
19 diluting and diverting Plaintiffs’ fair share under state common law of the
20 proceeds from their termination interests.

21 62. Plaintiffs are further informed and believe and on that basis allege
22 that in the Concealed Terms, HYNIE and JAMES II promised to assign to the
23 Estate and/or Trust certain copyright interests to be recovered from the 2013
24 Hynie Terminations (excluding the five Compositions assigned in the WCM
25 Agreement) and/or from any further notices of termination as to the remaining
26 Compositions, in further violation of the Copyright Act, *id.* §§ 304(c)(6)(D),
27 203(b)(4).

28 63. Plaintiffs are informed and believe and based thereon allege that the

1 wrongful conduct of HYNIE alleged herein was carried out as part of a
2 conspiracy with and/or in conjunction with the other Defendants, and that
3 Defendants have agreed to assist one another in a joint scheme to circumvent
4 Plaintiffs' termination interests and to convert all or part of Plaintiffs' share of
5 the proceeds from the Compositions.

6 64. As a direct and proximate result of Defendants' actions, Plaintiffs
7 will suffer imminent and irreparable harm, much of which cannot be reasonably
8 or adequately measured or compensated in damages.

9 65. Significantly, Defendants admitted in their Purported Settlement
10 Agreement that the copyright termination rights and interests in the
11 Compositions at issue herein are totally "outside of the probate estate" and the
12 scope of the South Carolina proceedings, and "not directly subject to [HYNIE'S]
13 Undue Influence and Spousal Claims" against Brown's Estate. Accordingly, by
14 this action Plaintiffs do not seek to litigate any interest or rulings that are the
15 subject of the South Carolina proceedings, including the Spousal Orders.
16 Instead, the focus of this action is to adjudicate the distinctly federal rights and
17 interests under the termination provisions and other salient provisions of the
18 Copyright Act, and to ensure that Plaintiffs receive their *per stirpes* share under
19 state common law of the proceeds attributable to the termination interests.

20 **FIRST CLAIM FOR RELIEF**

21 **(Declaratory Relief - Against All Defendants)**

22 66. Plaintiffs re-allege and incorporate herein by this reference
23 paragraphs 1 through 65 inclusive, as though fully set forth herein.

24 67. By reason of the foregoing, an actual and justiciable controversy
25 has arisen and now exists between Plaintiffs and Defendants in that Plaintiffs
26 contend and Defendants deny that Defendants' agreements regarding the
27 statutory termination rights and interests in the Compositions, are void and
28 unenforceable, including as in violation of the Copyright Act.

1 68. The Copyright Act expressly mandates that “[t]ermination ... may
2 be effected *notwithstanding any agreement to the contrary*, including an
3 agreement to make a will or to make a future grant.” 17 U.S.C. §§ 304(c)(5),
4 203(a)(5) (emphasis added). This intentionally broad provision bars *any*
5 agreement which settles, waives, releases, transfers, hypothecates or otherwise
6 encumbers the termination right and interest. Any such agreement must be
7 deemed void and unenforceable as a matter of law and public policy. *Id.*

8 69. In the Purported Settlement Agreement, HYNIE expressly agreed to
9 transfer to the Trust *the majority of all proceeds and benefits* from the federal
10 termination rights and interests, inclusive of the proceeds from any copyright
11 interests to be recaptured via the 2013 Hynie Terminations.

12 70. Plaintiffs are informed and believe and based thereon allege that in
13 the Concealed Terms, HYNIE and JAMES II also agreed to transfer to the Estate
14 or Trust some or all of the copyright interests in Compositions to be recaptured
15 via notices of termination, including the 2013 Hynie Terminations (except the
16 five Compositions HYNIE had already transferred in the WCM Agreement) or,
17 alternatively, to give the Estate or Trust approval over the disposition of such
18 copyright interests.

19 71. Plaintiffs are informed and believe and based thereon allege that in
20 the Concealed Terms, HYNIE, as threatened, improperly agreed, in exchange for
21 a substantial fixed payment and/or ongoing contingent participation in revenues
22 from the Compositions, that she would *not* exercise the termination rights as to
23 some or all of the remaining Compositions as to which she had not yet served
24 termination notices, to circumvent Plaintiffs’ statutory termination interests
25 while using the leverage of termination to enhance HYNIE’s compensation.

26 72. Plaintiffs are informed and believe and based thereon allege that
27 Defendants’ improper agreements convert Plaintiffs’ share of the financial
28 proceeds from their termination interests in the Compositions, encumbering,

1 diluting and/or effectively destroying Plaintiffs' termination interests.

2 73. All of HYNIE'S aforementioned agreements are void *ab initio* and
3 unenforceable as they directly or indirectly settle, waive, hypothecate and/or
4 encumber the termination rights and interests in violation of the comprehensive
5 prohibitions of 17 U.S.C. §§ 304(c)(5) or 203(a)(5), respectively.

6 74. The Copyright Act additionally provides that "[a] further grant, or
7 agreement to make a further grant, of any right covered by a terminated grant is
8 valid only if made after the effective date of the termination." *Id.* §§
9 304(c)(6)(D), 203(b)(4). The sole exception to this timing restriction applies to
10 copyright re-grants to the terminated grantee or its successor (in this case,
11 WCM): "an agreement for such a further grant may be made between the author
12 or [his statutory heirs] and the original [terminated] grantee or [its] successor in
13 title, after the notice of termination has been served." *Id.* § 304(c)(6)(D); *accord*
14 *id.* § 203(b)(2)-(4). The Act thus (i) forbids agreements regarding the copyright
15 termination interest until *after* the applicable notice of termination has been
16 served, and (ii) establishes an exclusive period of time (from the date a
17 termination notice has been served until its effective termination date) in which
18 *solely* the terminated copyright grantee or its successor, here WCM, may enter
19 into an agreement with the author or his/her statutory heirs as to the relevant
20 copyright termination interest. The statute thus categorically *bars third parties*
21 like the Estate and Trust Fiduciaries from trafficking in future copyright
22 termination interests until the applicable notice of termination has been served,
23 and even then, only after the exclusive bargaining period afforded to terminated
24 grantees or their successors has expired. Any restriction or limitation of these
25 rights and interests must be deemed void and unenforceable as a matter of law
26 under 17 U.S.C. §§ 304(c)(6)(D) or 203(b)(4), respectively.

27 75. As HYNIE and JAMES II are prohibited from transferring any
28 portion of the termination interest in a Composition until after the applicable

1 notice of termination has been served and, with respect to third parties like the
2 Estate/Trust, only until after the effective termination date, HYNIE's disclosed
3 agreement to transfer to the Trust *the majority* of the proceeds from the
4 termination interests (inclusive of the 2013 Hynie Terminations) or Concealed
5 Terms to transfer the copyright interests to be recaptured via notices of
6 termination (inclusive of the 2013 Hynie Terminations) prior to the effective
7 dates thereof, violates both prongs of 17 U.S.C. §§ 304(c)(6)(D) or 203(b)(4),
8 harming Plaintiffs (Brown's statutory heirs) and WCM (Brown's successor
9 grantee), both of which the statute plainly seeks to protect.

10 76. A declaration of this Court is warranted under the Declaratory
11 Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, to establish the parties' respective
12 rights and obligations with respect to their copyright termination rights and
13 interests in the Compositions. This declaration should establish that HYNIE's
14 Purported Settlement Agreement to sell a majority of the proceeds from the
15 termination interests is void and unenforceable as a matter of law and public
16 policy. 17 U.S.C. §§ 304(c)(5), (c)(6)(D) and 203(a)(5), (b)(4). The declaration
17 should further establish that any agreement by HYNIE and/or JAMES II, in the
18 Concealed Terms or otherwise, *not* to exercise the termination right(s) as to any
19 Composition(s) is void, unenforceable and prohibited as a matter of law and
20 public policy. *Id.* The declaration should further establish that any agreement by
21 HYNIE, in the Concealed Terms or otherwise, (i) to transfer to anyone the future
22 copyright interests to be recaptured via statutory termination before exercising
23 the respective termination right in any Composition, or (ii) to transfer to anyone
24 that is not an original grantee or its successor-grantee the future copyright
25 interests in any Composition to be recaptured via statutory termination, after
26 service of the applicable termination notice, but before its termination date, is
27 void, unenforceable and prohibited as a matter of law and public policy. 17
28 U.S.C. §§ 304(c)(6)(D) and 203(b)(4). The declaration should further establish

1 that any agreement by any Defendant that directly or indirectly diverts and/or
2 converts Plaintiffs' share of the financial proceeds as a co-owner of the
3 termination interests in the Compositions is void, unenforceable and prohibited
4 as a matter of law and public policy under the Act and state common law.

5 77. Plaintiffs are entitled to a preliminary injunction, during the
6 pendency of this action, and thereafter to a permanent injunction, enjoining
7 Defendants, their officers, agents and employees, and all persons acting in
8 concert with them, from entering into or performing any agreement which
9 directly or indirectly settles, waives, conveys or encumbers the termination
10 rights and interests with respect to the Compositions, including any agreement
11 by HYNIE and/or JAMES II not to exercise the termination rights and/or any
12 agreement by HYNIE and/or JAMES II prior to the effective date of statutory
13 termination to transfer or pre-assign to third parties, like the Estate and/or Trust,
14 copyright termination interests in the Compositions or the proceeds from such
15 termination interests.

16 **SECOND CLAIM FOR RELIEF**

17 **(Accounting - Against All Defendants)**

18 78. Plaintiffs re-allege and incorporate herein by this reference
19 paragraphs 1 through 65 inclusive, as though fully set forth herein.

20 79. Plaintiffs, as Brown's biological children (and in the case of two
21 deceased children, grandchildren), own a substantial portion of the copyright
22 termination interests in the Compositions under sections 304(c) and 203(a) of
23 the Copyright Act. In turn, under state common law, Defendants HYNIE and
24 JAMES II owe an absolute duty to disclose, account and remit to Plaintiffs their
25 *per stirpes* share of any and all proceeds paid or payable in consideration for the
26 copyright termination interests in the Compositions.

27 80. Defendants have breached their duty to render such accounting to
28 Plaintiffs and to remit to Plaintiffs their share of revenues derived from the

1 termination interests in the Compositions. HYNIE and JAMES II intentionally
2 concealed from Plaintiffs the three notices of termination that HYNIE and
3 JAMES II served in August 2013 covering approximately one hundred and
4 thirty-eight (138) Compositions, and intentionally concealed their subsequent
5 agreement with WCM to transfer five (5) of the terminated Compositions back
6 to WCM for significant compensation, until forced to disclose this information
7 and to pay Plaintiffs their allocate share of this compensation.

8 81. Plaintiffs are informed and believe and on that basis allege that
9 Defendants have engaged in additional undisclosed and as-yet-undiscovered
10 transactions and agreements regarding the valuable termination interests in the
11 Compositions by which HYNIE has been compensated for purporting to waive,
12 abrogate, transfer, or otherwise encumber the termination rights and interests, or
13 by which Defendants have otherwise diverted proceeds attributable to the
14 termination interests shared by Plaintiffs.

15 82. Plaintiffs are entitled to an order requiring HYNIE and JAMES II to
16 account to Plaintiffs with respect to all compensation or proceeds paid or
17 payable to HYNIE and/or JAMES II with respect to the Compositions, and for
18 an order requiring all Defendants to provide to Plaintiffs their complete, detailed
19 books and records of account concerning the Compositions, the copyrights and
20 any rights under copyright therein.

21 **THIRD CLAIM FOR RELIEF**

22 **(Conversion - Against All Defendants)**

23 83. Plaintiffs re-allege and incorporate herein by this reference
24 paragraphs 1 through 65 inclusive and paragraphs 78 through 82 inclusive, as
25 though fully set forth herein.

26 84. Defendants' actions, as alleged herein, constitute conversion of the
27 property and interests of Plaintiffs. Each Plaintiff possesses a right under state
28 common law to receive a *per stirpes* share of any and all proceeds paid or

1 payable in consideration for the termination interests they share in the
2 Compositions. Plaintiffs are informed and believe and based thereon allege that
3 Defendants have intentionally and substantially harmed Plaintiffs' rights and
4 interests, by entering into undisclosed agreements or transactions for the purpose
5 of diverting Plaintiffs' *per stirpes* shares of the proceeds from the Compositions,
6 and dividing such shares among the Defendants, as alleged hereinabove.

7 85. Plaintiffs have not consented to any of Defendants' conduct aimed
8 at converting Plaintiffs' property and interests.

9 86. As a direct and proximate result of Defendants' acts of conversion,
10 Plaintiffs have sustained damages in an amount to be adjudicated at trial, plus
11 prejudgment interest.

12 87. Defendants' conduct alleged herein was purposeful and intentional
13 and was engaged in to deprive Plaintiffs of property or legal rights or to
14 otherwise cause injury; was despicable conduct committed in conscious
15 disregard of Plaintiffs' rights; and was performed with fraud, oppression, and
16 malice, so as to justify an award of exemplary or punitive damages in an amount
17 according to proof at trial.

18 88. Defendants' wrongful acts will continue unless enjoined by this
19 Court. Plaintiffs have no adequate remedy at law for such continuing wrongful
20 conduct and are suffering irreparable damages as a result of the aforesaid acts of
21 Defendants. Plaintiffs are entitled to a preliminary injunction, during the
22 pendency of this action, and thereafter to a permanent injunction, prohibiting
23 Defendants, and all persons acting in concert or participation with them, from
24 engaging in such further conversion of Plaintiffs' property and interests as
25 alleged herein.

26 //

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1 **FOURTH CLAIM FOR RELIEF**

2 **(Unjust Enrichment - Against All Defendants)**

3 89. Plaintiffs re-allege and incorporate herein by this reference
4 paragraphs 1 through 65 inclusive and paragraphs 78 through 88 inclusive, as
5 though fully set forth herein.

6 90. Defendants owe Plaintiffs an absolute duty under state common law
7 to remit to Plaintiffs their *per stirpes* share of any and all proceeds paid or
8 payable in connection with the termination interests in the Compositions.
9 Plaintiffs are informed and believe and based thereon allege that despite this
10 duty Defendants have systematically concealed from Plaintiffs transactions
11 relating to the termination interests in the Compositions and have retained or
12 diverted to themselves Plaintiffs' share of proceeds derived from such interests,
13 as alleged herein.

14 91. As a direct and proximate result of Defendants' wrongful conduct,
15 Defendants have been unjustly enriched by their withholding, retention and/or
16 diversion of proceeds received pursuant to the licensing, transfer, or other
17 economic use of the termination interests in the Compositions. Plaintiffs are
18 entitled to restitutionary disgorgement of all funds by which Defendants have
19 been unjustly enriched, in an amount to be adjudicated at trial, plus prejudgment
20 interest.

21 **FIFTH CLAIM FOR RELIEF**

22 **(Intentional Interference with Prospective Economic Advantage –**
23 **Against All Defendants)**

24 92. Plaintiffs re-allege and incorporate herein by this reference
25 paragraphs 1 through 65 inclusive and paragraphs 78 through 91 inclusive, as
26 though fully set forth herein.

27 93. Plaintiffs have developed an economic relationship with music
28 publishers, including without limitation WCM, that are aware of the termination

1 interests in the Compositions and are potential grantees or licensees of the
2 Compositions. Plaintiffs' relationships with such third-parties are based on the
3 fact that they possess termination interests in the Compositions, a substantial
4 undivided interest in any Composition copyrights recaptured via termination,
5 and a substantial share of any proceeds from the termination interests, and such
6 interests are expected to result in substantial economic benefit to Plaintiffs.

7 94. At all relevant times, Defendants were aware of Plaintiffs'
8 relationships with such third-party music publishers, including WCM.
9 Nevertheless, and despite Plaintiffs' status as co-owners of the termination
10 interests, Defendants have dealt with such music publishers in a secretive
11 fashion, and a total lack of transparency, and have intentionally kept Plaintiffs in
12 the dark so as to manipulate any transaction regarding the termination interests
13 to Defendants' benefit and Plaintiffs' detriment by diverting or otherwise
14 diminishing Plaintiffs' proceeds therefrom, as alleged herein. Plaintiffs are
15 informed and believe and based thereon allege that to further their wrongful
16 objectives, Defendants have also portrayed Plaintiffs to such third party
17 publishers, like WCM, in a negative, adversarial light to deter such third parties
18 from openly communicating with Plaintiffs as to transactions relating to their
19 termination interests.

20 95. By their wrongful conduct, Defendants intended to disrupt
21 Plaintiffs' relationships with potential licensees and/or grantees such as WCM,
22 in order to divert Plaintiffs' economic interest in the Compositions to
23 Defendants. Defendants knew that by their conduct disruption of Plaintiffs'
24 relationships with such potential licensees and/or grantees was certain or
25 substantially certain to occur, and, as intended, Defendants' conduct has
26 disrupted Plaintiffs' relationships with such third parties, including WCM.

27 96. As a direct and proximate result of Defendants' conduct, Plaintiffs
28 have suffered and will continue to suffer economic damages in an amount to be

1 adjudicated at trial, plus prejudgment interest.

2 97. Defendants' conduct alleged herein was intentional and was
3 engaged in for the purpose of depriving Plaintiffs of property or legal rights or to
4 otherwise cause injury; was despicable conduct committed in conscious
5 disregard of Plaintiffs' rights; and was performed with fraud, oppression, and
6 malice, so as to justify an award of exemplary or punitive damages in an amount
7 according to proof at trial.

8 98. Defendants' wrongful acts will continue unless enjoined by the
9 Court. Plaintiffs have no adequate remedy at law for such continuing wrongful
10 conduct and are suffering irreparable damage as a result of the aforesaid acts of
11 Defendants. Plaintiffs are entitled to a preliminary injunction, during the
12 pendency of this action, and thereafter to a permanent injunction, prohibiting
13 Defendants, and all persons acting in concert or participation with them, from
14 engaging in such further interference with Plaintiffs' economic relationships as
15 alleged herein.

16 **SIXTH CLAIM FOR RELIEF**

17 **(Negligent Interference with Prospective Economic Advantage –**
18 **Against All Defendants)**

19 99. Plaintiffs re-allege and incorporate herein by this reference
20 paragraphs 1 through 65 inclusive and paragraphs 78 through 98 inclusive, as
21 though fully set forth herein.

22 100. Plaintiffs have developed an economic relationship with music
23 publishers, including without limitation WCM, that are aware of the termination
24 interests in the Compositions and are potential grantees or licensees of the
25 Compositions. Plaintiffs' relationships with such third-parties are based on the
26 fact that they possess termination interests in the Compositions, a substantial
27 undivided interest in any Composition copyrights recaptured via termination,
28 and a substantial share of any proceeds from the termination interests, and such

1 interests are expected to result in substantial economic benefit to Plaintiffs.

2 101. At all relevant times Defendants were or should have been aware of
3 Plaintiffs' relationships with such third-party music publishers, including WCM.
4 Nevertheless, and despite Plaintiffs' status as co-owners of the termination
5 interests, Defendants have dealt with such music publishers in a secretive
6 fashion, and a total lack of transparency, and have intentionally kept Plaintiffs in
7 the dark so as to manipulate any transaction regarding the termination interests
8 to Defendants' benefit and Plaintiffs' detriment by diverting or otherwise
9 diminishing Plaintiffs' proceeds therefrom, as alleged herein. Plaintiffs are
10 informed and believe and based thereon allege that to further their wrongful
11 objectives, Defendants have also portrayed Plaintiffs in a negative, adversarial
12 light to such third-party music publishers, like WCM.

13 102. Defendants knew or should have known that their unreasonable and
14 wrongful conduct would disrupt and damage Plaintiffs' relationships with such
15 music publishers. Nevertheless, Defendants failed to use reasonable care when
16 doing business with such third-parties to avoid such disruption and damage, and
17 Defendants' conduct has, in fact, disrupted Plaintiffs' relationships with these
18 potential licensees and/or grantees, including WCM.

19 103. As a direct and proximate result of Defendants' conduct, Plaintiffs
20 have suffered and will continue to suffer economic damages in an amount to be
21 adjudicated at trial, plus prejudgment interest.

22 104. Defendants' wrongful acts will continue unless enjoined by the
23 Court. Plaintiffs have no adequate remedy at law for such continuing wrongful
24 conduct and are suffering irreparable damage as a result of the aforesaid acts of
25 Defendants. Plaintiffs are entitled to a preliminary injunction, during the
26 pendency of this action, and thereafter to a permanent injunction, prohibiting
27 Defendants, and all persons acting in concert or participation with them, from
28 engaging in such further interference with Plaintiffs' prospective economic

1 relationships as alleged herein.

2 **SEVENTH CLAIM FOR RELIEF**

3 **(Violation of Cal. Bus. & Prof. Code §§ 17200 *et seq.* and §§ 17500 *et seq.***
4 **and Common Law Unfair Competition - Against All Defendants)**

5 105. Plaintiffs re-allege and incorporate herein by this reference
6 paragraphs 1 through 65 inclusive and paragraphs 78 through 104, as though
7 fully set forth herein.

8 106. Plaintiffs are informed and believe and based thereon allege that
9 Defendants, in their dealings with third parties, members of the public, and
10 Plaintiffs, have engaged in unlawful, unfair, and fraudulent conduct regarding
11 Plaintiffs' rights under state common law with respect to the Compositions,
12 including deceptive and unfair practices to deceive and defraud Plaintiffs out of
13 their *per stirpes* share under state common law of proceeds from the termination
14 interests in the Compositions, as alleged herein. Plaintiffs are further informed
15 and believe and based thereon allege that Defendants have, without limitation,
16 entered into and concealed kickback and other back-room dealings between and
17 among themselves that divert and/or funnel proceeds from the Compositions to
18 themselves, in wrongful circumvention of Plaintiffs' rights and interests.
19 Defendants have carried out such unfair business practices by concealing and
20 misrepresenting the true nature of Defendants' transactions, agreements and
21 arrangements concerning the Compositions, as alleged herein.

22 107. Plaintiffs are informed and believe and on that basis allege that
23 Defendants have engaged in such concealment and made such false and
24 misleading representations with a willful intention to mislead and misrepresent
25 the nature, characteristics, and qualities of the Compositions and Defendants'
26 transactions regarding the Compositions.

27 108. Plaintiffs are informed and believe and on that basis allege that
28 Defendants' misrepresentations and concealment were intended to deceive,

1 cause confusion and mistake, and were likely to deceive, cause confusion and
2 mistake, all contrary to the public interest.

3 109. Defendants' wrongful conduct, acts, and omissions alleged herein
4 constitute unlawful, fraudulent, and unfair business practices and unfair
5 competition under California Business and Professions Code §§ 17200 *et seq.*
6 and §§ 17500 *et seq.* and under the common law.

7 110. As a direct and proximate result of Defendants' conduct, acts, and
8 omissions alleged herein, Plaintiffs are entitled to restitution of the income,
9 gains, compensation, profits, and advantages obtained, received, or to be
10 received by Defendants arising from their exploitation of any rights in the
11 Compositions achieved through false and misleading representations to third-
12 parties and the public. Plaintiffs are further entitled to an order requiring
13 Defendants, jointly and severally, to render an accounting to ascertain the
14 amount of such proceeds.

15 111. As a direct and proximate result of Defendants' wrongful conduct,
16 acts, and omissions alleged herein, Plaintiffs have been damaged, and
17 Defendants have been and will continue to be unjustly enriched, in an amount
18 that shall be assessed at trial for which restitution and/or restitutionary
19 disgorgement is appropriate. Such should include a declaration by this Court that
20 Defendants are jointly and severally the constructive trustee(s) for the benefit of
21 Plaintiffs and an order that Defendants convey to Plaintiffs their respective *per*
22 *stirpes* share of any and all proceeds from the Compositions due Plaintiffs.

23 112. Defendants' wrongful conduct, acts, and omissions have
24 proximately caused and will continue to cause Plaintiffs substantial injury and
25 damage including, without limitation, diminution in the value of Plaintiffs'
26 interests in the Compositions. The harm that Defendants' willful conduct will
27 cause to Plaintiffs is both imminent and irreparable, and the amount of damage
28 sustained by Plaintiffs will be difficult to ascertain if such wrongful conduct is

1 allowed to continue unabated and without restraint.

2 113. Pursuant to California Business and Professions Code § 17203,
3 Plaintiffs are entitled to an injunction, during the pendency of this action, and
4 thereafter permanently enjoining Defendants, and all persons acting in concert
5 with them, from engaging in such further acts of unfair, fraudulent, and unlawful
6 business practices and unfair competition.

7 114. Plaintiffs have no adequate remedy at law with respect to
8 Defendants' ongoing unlawful conduct.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

11 **ON THE FIRST CLAIM FOR RELIEF**

12 1. For a declaration that the improper terms in Defendants' Purported
13 Settlement Agreement and Concealed Terms relating to the termination interests
14 in the Compositions under the Copyright Act, and any additional agreement by
15 or among Defendants reflecting or in furtherance of those improper terms, are
16 void, unenforceable and prohibited as a matter of law and public policy under
17 Sections 304(c) and 203(a) of the Copyright Act; and

18 2. For an order preliminarily during the pendency of this action and
19 thereafter permanently enjoining Defendants from entering into any agreement
20 regarding the Compositions which directly or indirectly settles, waives, conveys,
21 hypothecates, diminishes or encumbers the termination rights and interests in the
22 Compositions in contravention of Sections 304(c) and/or 203(a) of the Copyright
23 Act, including (A) any agreement by HYNIE and/or JAMES II (i) not to
24 exercise the termination right as to any Composition; (ii) to transfer to any party
25 the recaptured copyright expectancy in any Composition prior to service of the
26 respective notice of termination relating to that Composition; and/or (iii) to pre-
27 assign the proceeds from the termination interest in any Composition; and (B)
28 any agreement by HYNIE and/or JAMES II after the service of a notice of

1 termination with respect to any Composition, but before the effective
2 termination date in such notice (i) to transfer the copyright expectancy from such
3 termination to any third party that is not a terminated original grantee or
4 successor grantee of the Composition, including the Estate and/or Trust; (ii) to
5 assign the expected proceeds therefrom to such third party, and/or (iii) to
6 otherwise encumber the expected interests from such statutory termination.

7 ON THE SECOND CLAIM FOR RELIEF

8 3. For an order requiring that Defendants provide a complete and
9 accurate accounting to Plaintiffs of all monies, gains, profits, and advantages
10 Defendants have derived from any rights or interests in the Compositions; and

11 4. For an order imposing a constructive trust over all monies, gains,
12 profits, and advantages Defendants wrongfully or unlawfully derived or shall
13 derive from any rights or interests in the Compositions.

14 ON THE THIRD CLAIM FOR RELIEF

15 5. For an award of damages in an amount to be adjudicated at trial,
16 plus prejudgment interest;

17 6. For punitive or exemplary damages; and

18 7. For an order preliminarily during the pendency of this action and
19 thereafter permanently enjoining Defendants, and all persons acting in concert
20 with them, from engaging in any conduct that converts the property and/or
21 interests of Plaintiffs.

22 ON THE FOURTH CLAIM FOR RELIEF

23 8. For an order requiring that Defendants provide a complete
24 accounting to Plaintiffs of all monies, gains, profits and advantages Defendants
25 have derived from any rights or interests in the Compositions;

26 9. For an award of damages in an amount to be adjudicated at trial,
27 plus prejudgment interest; and

28 10. For an order imposing a constructive trust over all monies, gains,

1 and profits Defendants wrongfully or unlawfully derived or shall derive from
2 any rights or interests in the Compositions.

3 ON THE FIFTH CLAIM FOR RELIEF

4 11. For an award of damages in an amount to be adjudicated at trial,
5 plus prejudgment interest;

6 12. For punitive or exemplary damages; and

7 13. For an order preliminarily during the pendency of this action and
8 thereafter permanently enjoining Defendants, and all persons acting in concert
9 with them, from engaging in any conduct that interferes with or disadvantages
10 Plaintiffs' negotiations or business dealings with any potential licensee and/or
11 grantee of any rights in the Compositions, including WCM.

12 ON THE SIXTH CLAIM FOR RELIEF

13 14. For an award of damages in an amount to be adjudicated at trial,
14 plus prejudgment interest; and

15 15. For an order preliminarily during the pendency of this action and
16 thereafter permanently enjoining Defendants, and all persons acting in concert
17 with them, from engaging in any conduct that interferes with or disadvantages
18 Plaintiffs' negotiations or business dealings with any potential licensee and/or
19 grantee, including WCM, of any rights in the Compositions.

20 ON THE SEVENTH CLAIM FOR RELIEF

21 16. For an order requiring that Defendants provide a complete
22 accounting to Plaintiffs of all monies, gains, profits, and advantages Defendants
23 have derived from any rights or interests in the Compositions;

24 17. For an order requiring that Defendants provide a complete
25 restitution to Plaintiffs of all monies, gains, profits, and advantages, derived
26 from any rights or interests in the Compositions, and owed to Plaintiffs;

27 18. For an order imposing a constructive trust over all monies, gains,
28 profits, and advantages that Defendants wrongfully or unlawfully derived or

1 shall derive from any rights or interests in the Compositions;

2 19. For an order preliminarily during the pendency of this action and
3 thereafter permanently enjoining Defendants, and all persons acting in concert
4 with them, from engaging in such further unfair, fraudulent, and/or unlawful
5 business practices and unfair competition under California Business and
6 Professions Code §§ 17200 *et seq.* and/or §§ 17500 *et seq.*, as alleged
7 hereinabove; and

8 20. For such other and further relief and remedies available under
9 California Business and Professions Code §§ 17200 *et seq.* and/or §§ 17500 *et*
10 *seq.*, which the Court may deem just and proper.

11 ON ALL CLAIMS FOR RELIEF

12 21. For Plaintiffs' costs of suit;

13 22. For interest at the highest lawful rate on all sums awarded Plaintiffs
14 other than punitive damages;

15 23. For reasonable attorneys' fees; and

16 24. For such other and further relief as the Court deems just and
17 appropriate.

18
19 Dated: January 12, 2018

TOBEROFF & ASSOCIATES, P.C.

20
21 By: /s/ Marc Toberoff
22 Marc Toberoff

23 Attorneys for Plaintiffs Deanna Brown-Thomas,
24 Yamma Brown, Venisha Brown, Michael D.
25 Brown, Nicole C. Brown, Jeanette Mitchell
26 Bellinger, Sarah LaTonya Fegan, Ciara Pettit
27 and Cherquarius Williams
28

1 **JURY TRIAL DEMANDED**

2 Plaintiffs hereby request a trial by jury on each claim for relief alleged in
3 the Complaint that is triable by a jury.

4
5 Dated: January 12, 2018

TOBEROFF & ASSOCIATES, P.C.

6
7 By: /s/ Marc Toberoff
Marc Toberoff

8 Attorneys for Plaintiffs Deanna Brown-Thomas,
9 Yamma Brown, Venisha Brown, Michael D.
Brown, Nicole C. Brown, Jeanette Mitchell
10 Bellinger, Sarah LaTonya Fegan, Ciara Pettit
11 and Cherquarius Williams
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